UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1331
24 March 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fourth session

SUMMARY RECORD OF THE 1331st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 March 1999, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU
(Vice-Chairman)

later: Mr. ABOUL-NASR
(Chairman)

CONTENTS

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (continued)

Draft decision on Australia

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.99-40996 (E)

CONTENTS (continued)

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the twelfth to fifteenth periodic reports of Costa Rica

Draft concluding observations concerning the thirteenth and fourteenth periodic reports of Kuwait

Draft concluding observations on the Congo

Draft concluding observations concerning the twelfth to fifteenth periodic reports of the Syrian Arab Republic

The meeting was called to order at 3.10 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 3) (continued)

Draft decision on Australia (CERD/C/54/Misc.40/Rev.1)

1. Ms. McDOUGALL (Country Rapporteur) said she had reflected in the revised text most of the comments that had been made by members of the Committee.

Paragraph 1

2. Mr. SHERIFIS proposed the deletion of the word "distinguished" in the last sentence.

3. Mr. RECHETOV proposed that the word "presence" in the same sentence be replaced by "dialogue".

4. Both proposals were adopted.

5. Paragraph 1, as amended, was adopted.

Paragraph 2

6. Mr. DIACONU said that the reference to submissions from non-governmental organizations (NGOs) in the second sentence would set an undesirable precedent.

7. The CHAIRMAN pointed out that article 9 of the Convention referred only to material received from the States parties.

8. Ms. McDOUGALL (Country Rapporteur) said that, while she had no objection to the deletion of the second sentence, the bodies listed in the first sentence enjoyed official status.

9. Mr. van BOVEN said that, in its comments on Australia's last periodic report, the Committee had acknowledged the receipt of submissions from the Aboriginal and Torres and Strait Islander Social Justice Commissioner. Given the special status of the Aboriginal community and the fact that it had provided the Committee with extremely useful and important material, he felt that some acknowledgement of its participation was called for. He agreed, however, that the second sentence should be deleted.

10. Paragraph 2, as amended, was adopted.

Paragraph 3

11. Mr. DIACONU said that paragraph 3 expressed a value judgement on the entire history of Australian government policy towards the indigenous population and failed to acknowledge the progress achieved through the 1993 Native Title Act or the Mabo decision.

12. Mr. van BOVEN said that the Aboriginal peoples of Australia had been marginalized over the centuries. It was a very important paragraph that should be retained.

13. Mr. DIACONU said he would not object to the retention of the paragraph.

14. Paragraph 3 was adopted.

Paragraph 4

15. Mr. RECHETOV proposed that the phrase "has been recognized in international law" be amended to read "has been generally recognized". It was inappropriate to refer to international law without any mention of a specific treaty.

16. The proposal was adopted.

17. Paragraph 4, as amended, was adopted.

Paragraph 5

18. Mr. RECHETOV proposed that the words "regarding Australia" in the first sentence be deleted.

19. It was so decided.

20. Paragraph 5, as amended, was adopted.

Paragraph 6

21. Mr. RECHETOV proposed that the words "must now express" in the first sentence be amended to read "now expresses".

22. It was so decided.

23. Paragraph 6, as amended, was adopted.

Paragraphs 7 to 10

24. Paragraphs 7 to 10 were adopted.

Paragraph 11

25. Ms. McDOUGALL (Country Rapporteur) said that the wording within the first set of square brackets was her own while that within the second set of square brackets was proposed by Mr. Diaconu.

26. Mr. DIACONU said it was not for the Committee to propose amendments to a specific Act. It was more appropriate to encourage the search for solutions that were acceptable and in conformity with the Convention.

27. Mr. SHERIFIS said he supported Mr. Diaconu's proposal.

28. Mr. van BOVEN suggested that Mr. Diaconu's proposal be reworded to read: 'to finding solutions that are acceptable to the indigenous peoples and".

29. Mr. GARVALOV said that Mr. Diaconu's version focused on the indigenous people and excluded the State party. He thus preferred the Country Rapporteur's formula, which mentioned a consensus.

30. Ms. McDOUGALL (Country Rapporteur), Mr. de GOUTTES and Mr. YUTZIS said that they were able to support Mr. van Boven's suggested wording. The State party was not excluded, because the recommendation was addressed to it.

31. The CHAIRMAN said he took it that the Committee wished to adopt Mr. van Boven's wording.

32. It was so decided.

33. Paragraph 11, as amended, was adopted.

Paragraph 12

34. The CHAIRMAN, supported by Mr. SHERIFIS, proposed that the words "at its fifty-fifth session" be deleted because there might be no developments in the situation before the Committee's next session.

35. Ms. McDOUGALL (Country Rapporteur) said that the urgency of the matter required that it should be reviewed as soon as possible.

36. Mr. RECHETOV said he was in favour of retaining the reference to the fifty-fifth session. He proposed replacing "these matters" by "this matter" and "over these provisions" by "thereon".

37. The CHAIRMAN said he took it that the Committee wished to adopt the paragraph as amended by Mr. Rechetov.

38. It was so decided.

39. The draft decision on Australia as a whole, as amended, was adopted.

40. The CHAIRMAN said he noted that there was no reference to the delegation's statements and responses in the concluding observations. He suggested, therefore, that the State party should be given an opportunity to make comments in accordance with article 9 of the Convention. Any such comments would then be published in the Committee's report to the General Assembly.

41. It was so agreed.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the twelfth to fifteenth periodic reports of Costa Rica (CERD/C/54/Misc.33/Rev.2)

42. Mr. YUTZIS (Country Rapporteur) said that nearly all the suggestions, amendments and proposals put forward by the members of the Committee had been incorporated into the revised text of the draft conclusions.

Paragraphs 1 and 2

43. Paragraphs 1 and 2 were adopted.

Paragraph 3

44. Mr. RECHETOV suggested that the words "shall take precedence over" should be replaced by the words "shall prevail over", since "precedence" was not a legal term.

45. The CHAIRMAN said he would prefer to retain the ordinary English word.

46. Mr. RECHETOV withdrew his suggestion.

47. Paragraph 3 was adopted.

Paragraphs 4, 5 and 6

48. Paragraphs 4, 5 and 6 were adopted.

Paragraph 7

49. The CHAIRMAN said he thought that the detailed explanations of Costa Rica's economic situation were unnecessary.

50. Mr. YUTZIS (Country Rapporteur) said that the decline in the effectiveness of financial penalties due to the devaluation of the Costa Rican currency had formed part of the discussions with the delegation. If, however, the Committee wished to delete the reference, he would not oppose it.

51. Mr. NOBEL suggested that the words "have become insignificant due to monetary fluctuations and" be deleted. The sentence would then read: "The Committee is concerned that the financial penalties thus provided for do not constitute a sufficiently effective measure".

52. It was so decided.

53. Mr. GARVALOV pointed out that the Convention did not "request" effective measures, it "required" them. The last sentence of the paragraph should thus be amended accordingly.

54. It was so decided.

55. Paragraph 7, as amended, was adopted.

Paragraphs 8 and 9

56. Paragraphs 8 and 9 were adopted.

Paragraph 10

57. The CHAIRMAN said that the word "apprehensive" had not previously been used by the Committee. It should, perhaps, be replaced by the word "concerned".

58. It was so decided.

59. Mr. NOBEL said that there was a word missing from the first line which should read "land rights of indigenous populations".

60. Mr. YUTZIS (Country Rapporteur) said that the expression normally used was "indigenous peoples".

61. Mr. de GOUTTES said he agreed with the Country Rapporteur that the word "peoples" was used in English, corresponding to the word populations in the French version.

62. Paragraph 10, as corrected, was adopted.

Paragraph 11

63. Mr. de GOUTTES said that the words "de facto" in paragraphs 11, 12 and 19 should be replaced by with the word "effective".

64. It was so agreed.

65. Mr. YUTZIS (Country Rapporteur) consequently proposed that the word "effective" already appearing in paragraph 11 be deleted so that the text would read "effective access to protection".

66. It was so decided.

67. Paragraph 11, as amended, was adopted.

Paragraph 12

68. Mr. YUTZIS (Country Rapporteur) reminded the Committee that it had decided to replace the words "de facto" by "effective".

69. Paragraph 12, as amended, was adopted.

Paragraph 13

70. Paragraph 13 was adopted.

Paragraph 14

71. Mr.YUTZIS (Country Rapporteur) proposed that the reference to article 3 be deleted.

72. It was so decided.

73. Paragraph 14, as amended, was adopted.

Paragraph 15

74. Paragraph 15 was adopted.

Paragraph 16

75. The CHAIRMAN asked why the indigenous peoples and the black community were not mentioned; alternatively, the last three words of the paragraph should be replaced by "the entire population".

76. Mr. de GOUTTES, supported by Mr. SHERIFIS, said that the paragraph contained two separate ideas and should ideally be divided in two, one paragraph on the new immigration legislation and the other on those categories of the population which experienced difficulties in enjoying their rights.

77. Mr. DIACONU suggested that the formulation in paragraph 12 should be followed, since paragraph 16 reflected the concerns expressed in that paragraph.

78. Mr. YUTZIS (Country Rapporteur) said that, if the Committee so desired, he would produce a text based on the suggestions made by Mr. de Gouttes and Mr. Diaconu.

79. It was so decided.

Paragraph 17

80. The CHAIRMAN said that, since the indigenous peoples actually owned the land, the word "distribution" should be replaced by "restoration" or "return". He asked what was meant by the words "a different concept of land use and ownership".

81. Mr. DIACONU explained that, to a lawyer, land was an item of property to be bought and sold on the market whereas, to an indigenous person, it was part and parcel of his nature and his life.

82. Paragraph 17 was adopted.

Paragraph 18

83. Paragraph 18 was adopted.

Paragraph 19

84. Mr. GARVALOV said that the first "further" in the first line of the paragraph should be deleted.

85. It was so decided.

86. Mr. de GOUTTES reminded the Committee that the words "de facto" had been replaced by the word "effective".

87. Paragraph 19, as amended, was adopted.

Paragraphs 20 and 21

88. Paragraphs 20 and 21 were adopted.

Paragraph 22

89. Mr. SHERIFIS suggested that the end of the sentence be modified to read "it address all the suggestions and recommendations adopted by the Committee in the present observations".

90. It was so decided.

91. Paragraph 22, as amended, was adopted.

92. The draft concluding observations concerning the twelfth to fifteenth periodic reports of Costa Rica as a whole, as amended, were adopted.

Draft concluding observations concerning the thirteenth and fourteenth periodic reports of Kuwait (CERD/C/54/Misc.43/Rev.2)

93. Mr. YUTZIS (Country Rapporteur) said the revised draft included all the suggestions made by Committee members, except those by Mr. Diaconu which he had received too late for inclusion.

Paragraphs 1, 2 and 3

94. Paragraphs 1, 2 and 3 were adopted.

Paragraph 4

95. Mr. GARVALOV proposed that, in the first sentence, the words "a certain number of" should be inserted before the words "non-Kuwaitis".

96. It was so decided.

97. Paragraph 4, as amended, was adopted.

Paragraph 5

98. Mr. DIACONU pointed out that, since all naturalized persons should automatically have voting rights, the paragraph was an impolitic one and should be deleted.

99. It was so decided.

Paragraph 6

100. Mr. DIACONU, supported by Mr. YUTZIS (Country Rapporteur), suggested that the expression "illegal residents" be replaced by the words "undocumented persons".

101. It was so decided.

102. Paragraph 6, as amended, was adopted.

Paragraph 7

103. Mr. van BOVEN said that the second article of the Penal Code referred to in the paragraph related not to article 4 of the Convention but to article 2. He proposed, therefore, that the phrase "article 4" be replaced by the words "articles 2 and 4".

104. It was so decided.

105. The CHAIRMAN having commented that it could hardly be an offence "not to recognize racial equality", Mr. DIACONU proposed that the word "recognize" be replaced by the word "respect".

106. It was so decided.

107. Paragraph 7, as amended, was adopted.

Paragraph 8

108. Mr. van BOVEN asked whether the Committee was certain that the State party had ratified 114 international conventions. The number seemed too large to be meaningful.

109. The CHAIRMAN proposed that the phrase "the ratification by the State party of ..." be replaced by the words "the statement by the State party that it had ratified ...".

110. It was so decided.

111. Mr. van BOVEN then suggested that the number "114" be replaced by the words "a large number of".

112. It was so decided.

113. Paragraph 8, as amended, was adopted.

Paragraph 9

114. Paragraph 9 was adopted.

Paragraph 10

115. Mr. DIACONU proposed that the words "in the State party" be deleted.

116. It was so decided.

117. Paragraph 10, as amended, was adopted.

Paragraph 11

118. Mr. DIACONU said that the paragraph did not relate to the Convention and proposed that it be deleted.

119. It was so decided.

Paragraph 12

120. Mr. RECHETOV, referring to the second half of the paragraph, said that the Committee did not know whether there were any other measures that should be taken into account.

121. Mr. DIACONU proposed that the second part of the paragraph be amended to read "... it notes with concern that the Kuwaiti legislation is not in full compliance with the provisions of this article".

122. It was so decided.

123. Mr. van BOVEN pointed out that the word "amendments" should be "amendment" in the singular.

124. Paragraph 12, as amended and corrected, was adopted.

Paragraph 13

125. Mr. SHERIFIS said he wondered whether the Committee should limit itself to mentioning Palestinians, Bangladeshis and Somalis.

126. Mr. YUTZIS (Country Rapporteur) said that those were the groups that experienced the greatest difficulties. He suggested rewording the last part of the paragraph to read "vulnerable groups of foreigners, in particular the treatment of foreign domestic servants".

127. Paragraph 13, as amended, was adopted.

Paragraph 14

128. In response to a query by Ms. ZOU Deci, Mr. NOBEL said that the word "bidoon" did not require an initial capital letter, since it did not refer to a nationality but was simply an Arab adjective.

129. Paragraph 14 was adopted, subject to minor editorial changes.

Paragraph 15

130. Paragraph 15 was deleted.

Paragraph 16

131. Mr. GARVALOV said that the word "apparent" might give the impression that the Committee did not know whether or not there was a lack of training for law enforcement officials.

132. Mr. YUTZIS (Country Rapporteur) said that the words "the apparent lack of appropriate training" might be replaced by the words "the insufficient training".

133. It was so decided.

134. Paragraph 16, as amended, was adopted.

135. Mr. Diaconu, Vice-Chairman, took the Chair.

136. The CHAIRMAN proposed that the section E heading be moved to a position above paragraph 17.

137. It was so decided.

Paragraph 17

138. Paragraph 17 was adopted.

Paragraph 18

139. Mr. van BOVEN proposed that the phrase "vulnerable groups of foreigners" be replaced by "vulnerable groups of foreigners, notably domestic workers, ...".

140. The proposal was adopted.

141. Paragraph 18, as amended, was adopted.

Paragraph 19

142. Mr. SHAHI said that, while he agreed in principle that the bidoons should be naturalized, there were apparently about 100,000 of them and he wondered whether it was not too much to expect the State party to grant such a large group their rights en masse. He suggested that the words "grant them naturalization" be replaced by "expedite the process of naturalization".

143. Mr. GARVALOV said that, if the bidoons were not naturalized, racial discrimination against them would continue.

144. Mr. YUTZIS (Country Rapporteur) said that the situation of the bidoons represented one of Kuwait's major problems and the Committee ought to take

some decision thereon. It was not a question of recommending how long the State party should take about it, but of recommending that it find a solution.

145. After a discussion in which Mr. SHAHI, Mr. YUTZIS and Mr. ABOUL-NASR took part, the CHAIRMAN proposed that the final part of the paragraph should be amended to read "... the problems faced by the bidoons and ensure the full enjoyment of their rights without any discrimination."

146. It was so decided.

147. Paragraph 19, as amended, was adopted.

Paragraphs 20 and 21

148. Paragraphs 20 and 21 were adopted.

149. Mr. ABOUL-NASR suggested that paragraphs 20 and 21 be placed between paragraphs 23 and 24.

150. It was so decided.

Paragraphs 22 and 23

151. Paragraphs 22 and 23 were adopted.

Paragraph 24

152. Mr. SHERIFIS proposed that the words "address all the points raised in the concluding observations and ..." be replaced by "address the suggestions and recommendations adopted by the Committee".

153. Mr. van BOVEN said that that was the formula the Committee had decided to use when requesting an updated report. If the Committee was requesting a full report, then the existing wording was appropriate.

154. Mr. YUTZIS (Country Rapporteur) said that the report should be an updated report. He suggested that the second sentence of the paragraph might be reworded to read "the Committee recommends that the next periodic report of the State party, which should be an updated report, due on 4 January 1993, address the suggestions and recommendations adopted by the Committee during the consideration of this report".

155. It was so agreed.

156. The CHAIRMAN proposed that the two sentences of paragraph 24 should form two separate paragraphs.

157. It was so decided.

158. Paragraph 24, as amended, was adopted.

159. The draft concluding observations concerning the thirteenth and fourteenth periodic reports of Kuwait as a whole, as amended, were adopted.

160. Mr. Aboul-Nasr resumed the Chair.

Draft concluding observations on the Congo (CERD/C/54/Misc.22)

Paragraph 1

161. Paragraph 1 was adopted.

Paragraph 2

162. The CHAIRMAN proposed a dilution of the statement in that paragraph to some extent by saying "the State party had not been able to respond to its invitation" rather than "the State party had not responded to its invitation".

163. It was so decided.

164. Paragraph 2, as amended, was adopted.

Paragraph 3

165. Mr. DIACONU said that the word "concluded" was not to the point and should be replaced by "considers".

166. It was so agreed.

167. Paragraph 3, as amended, was adopted.

Paragraphs 4 and 5

168. Paragraphs 4 and 5 were adopted with minor drafting changes.

Paragraph 6

169. The CHAIRMAN, referring to the last sentence of the paragraph, said it was not clear from whom the Committee was requesting information, since no report had been received and none was expected in the near future.

170. Mr. DIACONU said that information on cooperation with other United Nations bodies was no replacement for dialogue. As paragraph 7 referred to a dialogue with the State party, he proposed that the last sentence of paragraph 6 be deleted.

171. It was so decided.

172. Paragraph 6, as amended, was adopted.

173. The draft concluding observations on the Congo as a whole, as amended, were adopted.

Draft concluding observations concerning the twelfth to fifteenth periodic reports of the Syrian Arab Republic (CERD/C/54/Misc.36/Rev.2)

174. Mr. SHAHI (Country Rapporteur) said that he had thoroughly revised the original text of the draft concluding observations to take fully into account the statement made by the representative of the Syrian Arab Republic.

Paragraphs 1 and 2

175. Paragraphs 1 and 2 were adopted.

Paragraph 3

176. Mr. DIACONU proposed that the last sentence of the paragraph be deleted. It was true that a state of emergency continued to be in force, but the representative of Syria had repeatedly stated that that had not resulted in a restricted implementation of the provisions of article 5 or in racial discrimination. The state of emergency was related to the state of war, and not to substantive issues concerning human rights or the implementation of the Convention.

177. Mr. NOBEL said that the state of emergency was also used as a justification for discrimination against Kurds and other minorities. He was therefore in favour of retaining the sentence.

178. Mr. SHERIFIS said that, if the representative of Syria had in fact said that the state of emergency had not resulted in a restricted implementation of article 5 and none of the members of the Committee had challenged his statement, then he agreed that the last sentence should be deleted.

179. Mr. SHAHI (Country Rapporteur) said that, while he had no objection to the deletion of the last sentence, he wished to explain the rationale behind it. In a state of emergency, it was inevitable that certain rights were restricted, such as freedom of movement, freedom of the press or freedom of assembly. The representative of Syria had stated that that had not affected the everyday life of citizens, but it was still a fact that certain restrictions existed and must be taken into account.

180. Mr. NOBEL said that he had himself challenged the Syrian representative's assertion and, with the Chairman's permission, he would prove the fact by quoting from the relevant summary record.

181. The CHAIRMAN said that the Committee had no time for quotes from the summary record.

182. Mr. SHAHI (Country Rapporteur) said that the sentence in question was in justification of the action taken by Syria in the state of emergency.

183. The CHAIRMAN said he took it that a majority of the members of the Committee wished to adopt the paragraph as it stood.

184. It was so decided.

185. Paragraph 3 was adopted.

Paragraphs 4 and 5

186. Paragraphs 4 and 5 were adopted.

Paragraphs 6 and 7

187. Mr. DIACONU said he could not see the point of paragraphs 6 and 7 and proposed that they be deleted.

188. Mr. SHAHI (Country Rapporteur) said that, while he would not stand in the way of a decision to delete paragraphs 6 and 7, he wished to point out that very few of the States parties considered by the Committee complied in full with the provisions of article 4 of the Convention. In its concluding observations on the eleventh periodic report of Syria, the Committee had noted that the State party had scrupulously enacted legislation to implement article 4 (a) and (b).

189. The CHAIRMAN proposed that paragraph 6 be deleted, together with the word "also" in the first line of paragraph 7.

190. It was so decided.

191. Paragraph 7, as amended, was adopted.

Paragraphs 8 and 9

192. Paragraphs 8 and 9 were adopted.

Paragraph 10

193. Ms. McDOUGALL proposed that the phrase "and there are no apparent patterns of systematic racial discrimination" be deleted.

194. It was so decided.

195. Paragraph 10, as amended, was adopted.

Paragraph 11

196. The CHAIRMAN asked whether the Committee had already expressed concern about Syrian-born Kurds; if not, the word "remains" in the first line was inappropriate. Syria had problems with other minorities, but he was unaware that it had any with Kurds.

197. Mr. SHAHI (Country Rapporteur) said that the representative of Syria had stated that Kurds were treated in the same way as Syrian citizens. Many of those who had been deprived of citizenship in the 1960s had since been granted the same rights as Syrian citizens.

198. Mr. NOBEL said that the problem as described in paragraph 11 had been raised by many NGOS and had been quoted during the discussion.

199. The CHAIRMAN said that he knew from his own experience how some NGOS attacked and hounded all Arab and Muslim countries. Whenever anything was said about Iraq, Libya, Sudan, Iran or Afghanistan, or whenever a Muslim country was mentioned, some 20 NGOs took up the chase. He was unable, therefore, to accept Mr. Nobel's reliance on NGO reports.

200. Mr. SHERIFIS proposed that the word "great" at the end of the second line of the paragraph be deleted.

201. It was so decided.

202. Paragraph 11, as amended, was adopted.

The meeting rose at 6.05 p.m.